

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

KWIK GOAL, LTD.

Plaintiff,

v.

EPIC SPORTS, INC., GARY PROCTOR  
and GOAL SPORTING GOODS, INC.

Defendants,

Case No. 06-cv-00396 (SHS) (DF)

**FINAL JUDGMENT AND  
INJUNCTION BY CONSENT**

USDC SDNY  
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DOC #:  
DATE FILED: 11/2/06 (62)

WHEREAS, on or about January 19, 2006, Kwik Goal commenced an action against defendants Epic Sports, Inc. ("ESI") and Gary Proctor ("Proctor") (ESI and Proctor, collectively, "Defendants") in the United States District Court for the Southern District of New York captioned Kwik Goal, Ltd. v. Epic Sports, Inc., Gary Proctor and Goal Sporting Goods, Inc., 06 Civ. 00396 (SHS) (the "Action") asserting claims of copyright infringement under the Copyright Laws of the United States, trademark infringement, passing off and trade dress infringement under the Trademark Laws of the United States, patent infringement under the Patent Laws of the United States, breach of contract, unfair competition, deceptive and dishonest acts and practices, misappropriation and unjust enrichment;

WHEREAS, in the Action Defendants interposed three counterclaims. Defendants' first counterclaim seeks, inter alia, a declaration of invalidity with respect to the copyright registrations Kwik Goal asserted against Defendants in the Action, Copyright Registration Nos. TX-4-580-917, TX-4-942-281, TX-5-185-981, TX-5-421-443, TX-5-554-492, TX-6-231-464 (the "Copyright Registrations"). Defendants' second counterclaim seeks a declaration that the patent Kwik Goal asserted in the Action, United States Patent No. 5,938,546 (the "'546 Patent"), was not infringed, was invalid, void and unenforceable. Defendants' third

counterclaim alleges that Kwik Goal improperly terminated ESI as an authorized distributor of Kwik Goal's merchandise (Defendants' three counterclaims, collectively, the "Counterclaims");

**WHEREAS**, Kwik Goal and defendant Goal Sporting Goods, Inc. ("Goal") previously agreed to resolve all outstanding disputes and previously stipulated to the entry of a Final Judgment and Injunction By Consent as against defendant Goal only which stipulation was so Ordered by the Court on or about April 20, 2006; and

**WHEREAS**, Kwik Goal and Defendants have now agreed to resolve all outstanding disputes without the expense and inconvenience of further litigation and have stipulated to the entry of this Final Judgment and Injunction By Consent, this Honorable Court consenting.

**NOW THEREFORE**, it is accordingly ordered, adjudged and decreed:

1. Kwik Goal's claims against Defendants arise under the Copyright Laws of the United States, Title 17 U.S.C. § 101 et seq., the Trademark Laws of the United States, Title 15 U.S.C. § 1051 et seq., and the Patent Laws of the United States, Title 35 U.S.C. § 1 et seq.

2. This Court has jurisdiction over Defendants and has jurisdiction over the subject matter of Kwik Goal's claims for relief by reason of 28 U.S.C. §§ 1331, 1338 and 1367. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332 as there is diversity between the parties and the matter in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars. Venue in this Judicial District is proper as to Defendants under 28 U.S.C. § 1391.

3. Defendants, their officers, agents, representatives, employees and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are permanently enjoined and restrained from infringing Kwik

Goal's copyrights, infringing Kwik Goal's trademarks and trade dress, infringing Kwik Goal's patents, from falsely designating the origin, sponsorship or affiliation of their business, goods or services, from unfairly competing with Kwik Goal, from engaging in deceptive trade practices, misappropriation and unjust enrichment and specifically from:

(i) copying, reproducing, distributing, creating derivative works of, or otherwise using images, text or graphics from, the works that are the subject of the Copyright Registrations. It is understood and agreed that use by Defendants of the images and text attached hereto as Exhibit A would not constitute a violation of this decretal paragraph 3(i).

(ii) using any reproduction, counterfeit, copy or colorable imitation of the marks "KWIK BUTTON" and/or "QUICK BUTTON" or any other designation confusingly similar to Kwik Goal's federally registered KWIK BUTTON® trademark (U.S. Reg. No. 2302061) in connection with the promotion and/or marketing of sporting goods and related goods and services; provided that Defendants may use the term "PUSH BUTTON" in connection with the promotion of soccer goals.

(iii) using any reproduction, counterfeit, copy or colorable imitation of the tri-partite diamond design logo depicted below or any other designation confusingly similar to Kwik Goal's federally registered diamond logo (U.S. Reg. No. 2147667) in connection with the promotion and/or marketing of sporting goods and related goods and services:



(iv) using any reproduction, counterfeit, copy or colorable imitation of the marks "KWIK BACK" or "QUICK BACK" or any other designation confusingly similar to Kwik Goal's federally registered KWIK BACK® trademark (U.S. Reg. No. 2232965) in

connection with the promotion and/or marketing of sporting goods and related goods and services.

(v) importing, distributing, offering for sale or selling a soccer rebounder product containing a red square "target" and white ground shoes with red caps. Notwithstanding the foregoing, ESI having represented that it has previously placed advertisements in the form shown in Exhibit B for calendar year 2006 and that such advertisements have already been published in third party publications, it is acknowledged and agreed that the existence of such previously placed and published advertisements shall not constitute a violation of this decretal paragraph 3(v); however, future advertisements placed by ESI shall conform to the requirements of this paragraph.

(vi) unauthorized importing, distributing, offering for sale or selling ESI's two-sided rebounder product item #RV234B; or any product that infringes the '546 Patent.

4. The Court expressly retains jurisdiction over the parties hereto for the purpose of enforcing and insuring compliance with the terms of this Final Judgment and Injunction By Consent.

5. The above captioned action and the Counterclaims are hereby dismissed with prejudice.

[INTENTIONALLY LEFT BLANK]

6. It being represented to the Court that Kwik Goal and Defendants have settled all claims, the Counterclaims and demands made in this action against each other, each party shall bear its own costs.

**CONSENTED TO:**

**KILPATRICK STOCKTON LLP**

By: 

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Telephone: (212) 775-8700  
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Attorneys for plaintiff  
Kwik Goal, Ltd.

**LAW OFFICES OF TODD  
WENGROVSKY, PLLC.**

By: 

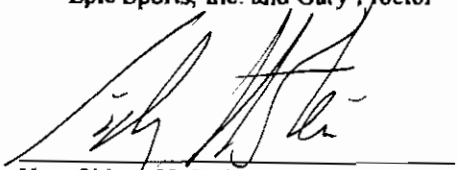
TODD WENGROVSKY (TW-4823)  
285 Southfield Road, Box 585  
Calverton, NY 11933  
Tel (631) 727-3400  
Fax (631) 727-3401  
[contact@twlegal.com](mailto:contact@twlegal.com)  
Attorneys for defendants  
Epic Sports, Inc. and Gary Proctor

**SO ORDERED:**

Dated: New York, New York

October 2, 2006

11/2/06

  
Hon. Sidney H. Stein  
United States District Judge

**FINAL JUDGMENT AND INJUNCTION BY CONSENT**  
**EXHIBIT A**

**1. Epic Futsal Ball (Low bounce)**

A weighted, 25" circumference Futsal ball.  
 Constructed of 32 panels of hand sewn,  
 Top Quality Synthetic leather  
 Regular inflation is required with Latex bladders.



**2. X-TREEM Indoor Soccer ball**

The Ultimate Indoor Ball  
 Designed for INDOOR PLAY  
 butyl bladder for Superior air retention  
 Cover constructed of 32 Handsewn Panels of soft suede  
 with 4-layer Sta-ball backing and Balanced Ball Technology  
 Sizes: 4 & 5



**3. Captain Arm Bands**

Elastic arm bands to designate  
 team captain



**4. Easy Goal Rebounder 7' H x 14' W**

Price Includes:  
 (1) Goal & Net  
 Quality Features:  
 Transportable.  
 1 5/8" O.D. steel tube, painted white.  
 Please Call 1-888-225-4537 if ordering more than 1-Goal  
 No Tools Required to assemble  
 Snap Lock Construction  
 6" Welded Steel Spikes (under flat ground bars) provides goal support. 4mm  
 net with rubber straps included.

**5. Epic Small Soccer Goal 6.5'Tall x 18.5'Wide**

Price Includes: (1- Goal Net), Net Fastener "U" Ground Anchors  
 Quality Features: 1 1/2" O.D. metal, painted white.  
 Push Button assembly.  
 2mm net and "U" anchors included.  
 Replacement net available

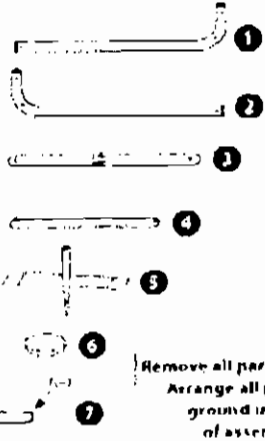
**Epic Soccer**  
 Gear for the Elite



**ASSEMBLY INSTRUCTIONS**

**Parts List**

- Part #1  
Post - Left Front  
1 each
- Part #2  
Post - Right Front  
1 each
- Part #3  
Post - Left Back  
1 each
- Part #4  
Post - Right Back  
1 each
- Part #5  
Ground Stud  
2 each
- Part #6  
Double End  
2 each
- Part #7  
Base  
2 each



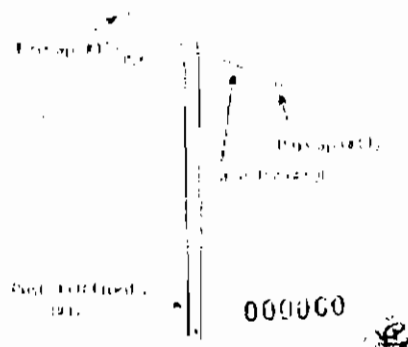
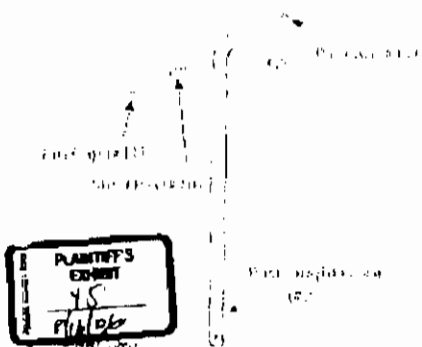
Remove all parts from box.  
 Arrange all pieces on  
 ground in order  
 of assembly.

**Parts List Cont.**

- Part #8  
Post - Left Back  
1 each
- Part #9  
Post - Right Back  
1 each
- Part #10  
Post - Left Front  
1 each
- Part #11  
Post - Right Front  
1 each
- Part #12  
Post - Left Back  
1 each
- Part #13  
Post - Right Back  
1 each

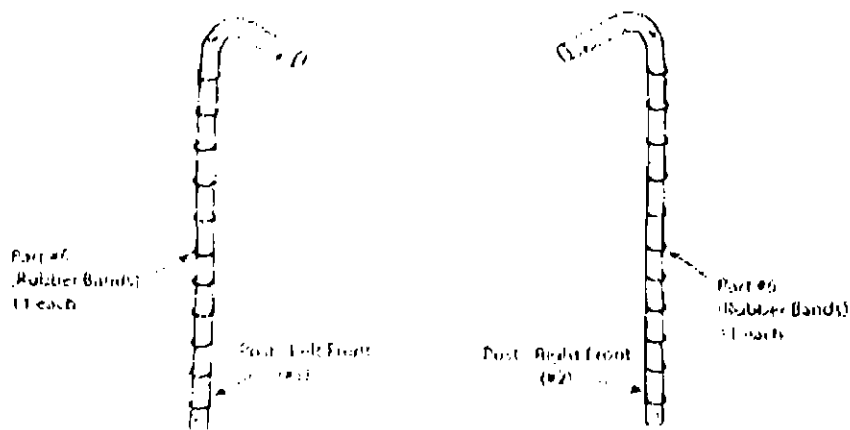


Unpack and assemble front Post #1 & 2 as shown.

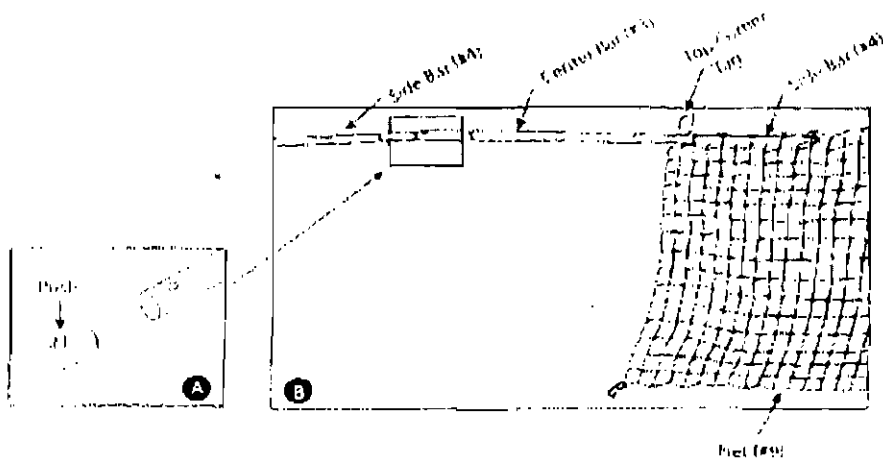


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2) Finally space 11 Rubber Bands (#6) on each of the two Front Posts (#1 & #2)

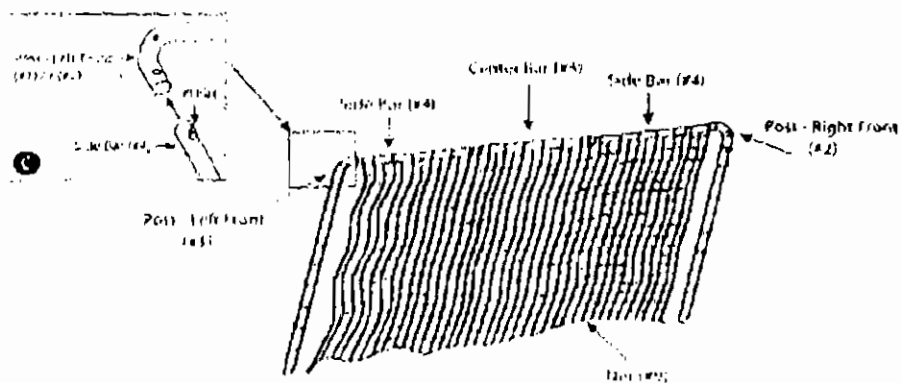


3) Attach a Side Bar (#4) to each end of the Center Bar (#3).  
 4) Lay out in diagram (A) and weave the entire assembled Top Bar into and through the very top squares of the netting, starting at the Top Corner Tag, as shown in diagram (B).

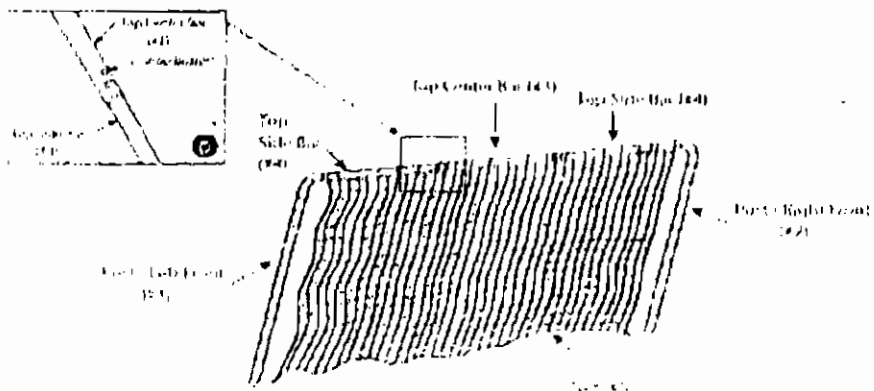


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4.) Lay assembled top bar and attached nut closely between the two front Posts (#1 & #2) and attach front Posts to assembled top bar as shown in diagram (C).

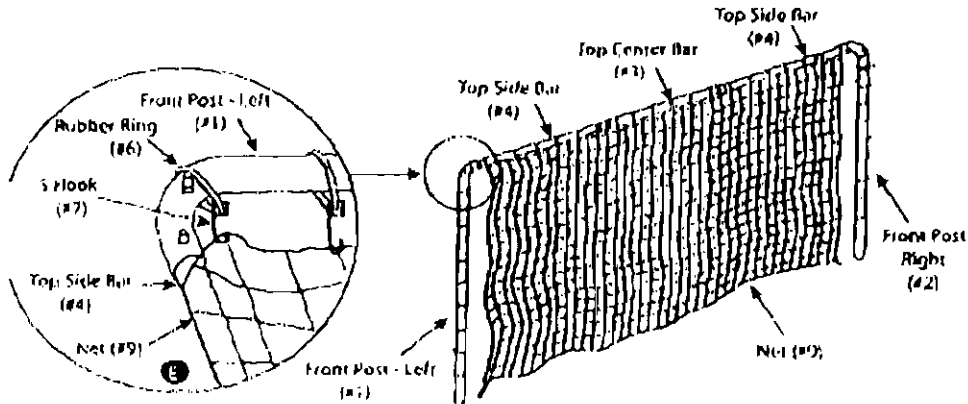


2. Depress the Snap Bottom and slide the Top Side Bar (34) (along with the push button), past the push button hole and into the Top Center Bar (33) at the top of the Auger on diagram (32). They will slide together in installation.

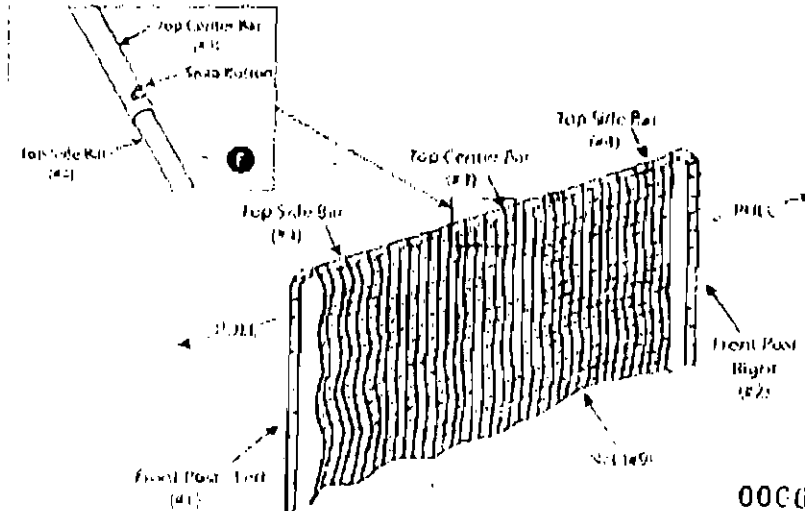


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6.) Slide the flat "I" part of the S-hooks (#7) behind the top Rubber Bands (#6) on the Front Posts (#1 & #2) and attach Net (#9) to S-Hook (#7) as shown in diagram (E).

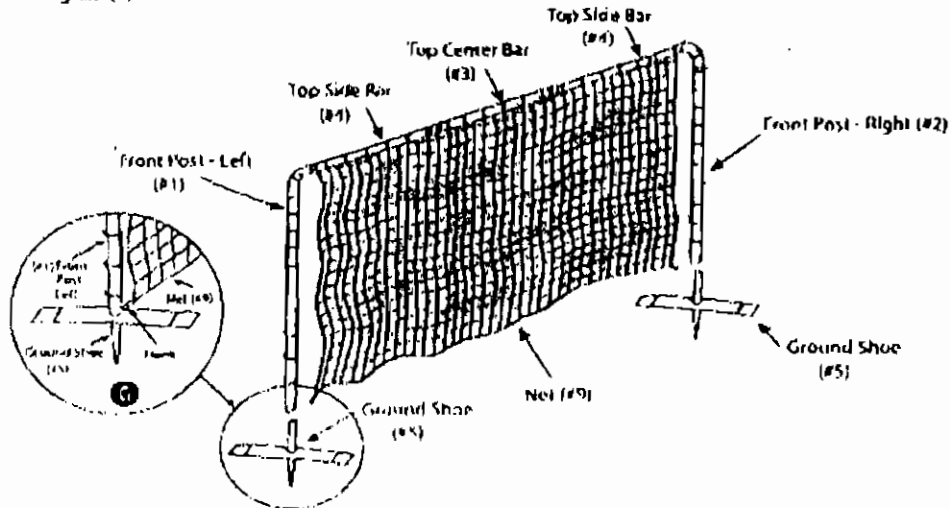


7.) Using two people, each person holding a different Front Post, slowly pull the assembled frame apart until the Snap Buttons located in the Top Side Bar (#4) snap into the slot located in the Middle Bar (#3), as shown in diagram (F).

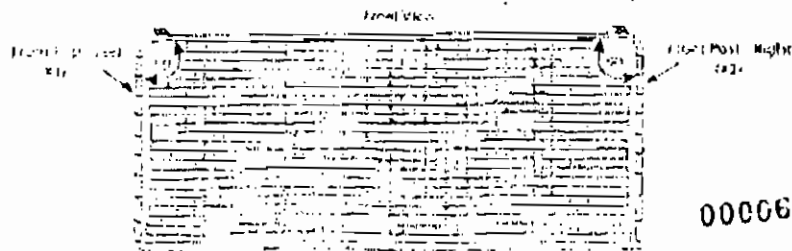


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#8: Attach a Ground Shoe (#5) to the bottom of each of the Front Posts (#1 & #2) and using the two Snap Hooks, one located at each lower corner of the net, attach the Net (#9) to the Ground Shoes (#5), as shown in diagram (C).



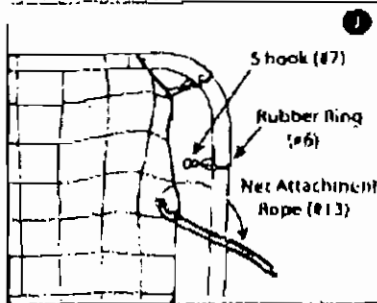
#9: Starting at the top of the assembled post system, measure the distance from the center of the left front post, to the center of the right front post and make note of that Width Measurement. Lift the assembly and push to the upright position and stored in the reversed position. At genuine protective spike cap from each Ground Shoe (#5). Stand on the top of one of the Ground Shoes (#5) with your feet and pump slightly (without hurting yourself), see diagram (D), until the Ground Shoe Spike is halfway embedded into the ground, then place the second Ground Shoe (#5) the same distance away from the partially embedded Ground Shoe (#5) as the Width Measurement. If you measured, you may have to pull the bottom of the post apart slightly to achieve the desired Width Measurement. Now using the previous technique, insert the spike of the second Ground Shoe (#5) fully into the ground and then fully insert into the ground the spike of the first partially embedded Ground Shoe (#5). **NEVER USE A HAMMER ON THE GROUND SHOES (#5)** if ground is hard use the Pilot Spike (#8) to create a pilot hole for the Ground Shoe Spike, prior to inserting into the ground see diagram (H).



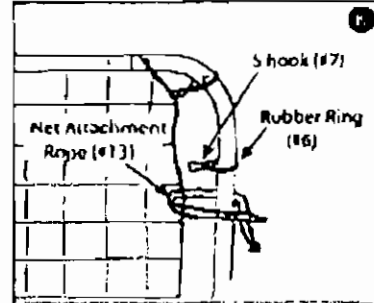
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#10) Slide the Net "U" part of the S-hooks (#7) behind each Rubber Band (#6) on both Front Posts (#1) & (#2) and attach Net (#9) to S-Hooks (#7) as shown in diagrams (J, K, L & M).

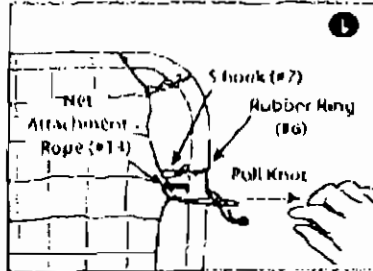
Lap rope through net.



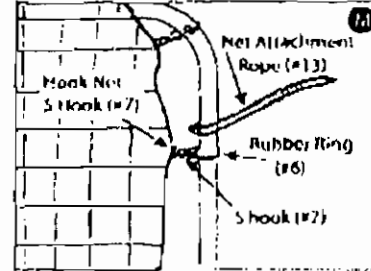
Place knot through loop.



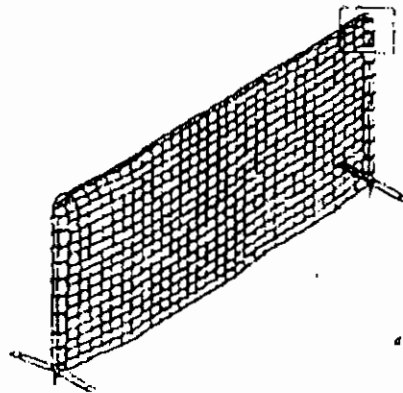
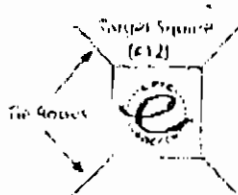
Pull knot and attach net to S hook.



Remove rope and move on to next S hook.



#11) Attach Target Square (#12) at desired location.



#12) Reverse assembly instructions, to disassemble.

**CAUTION:** This product be anchored at all times. When this goal is not in use it must be disassembled and stored in a safe place. This assembled goal should not be left unattended. Do not use this goal as a lightning, both wind instrument or other dangerous conditions. This goal should be regularly stored for unsafe conditions or excessive wear, and should not be used if these conditions exist.

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**FINAL JUDGMENT AND INJUNCTION BY CONSENT**  
**EXHIBIT B**


There's only one place to go for the best soccer gear!

**www.EpicSoccer.com**

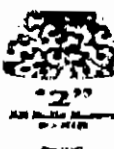
1-800-426-4557 1-800-706-4706 1-800-426-4557




**'16"**  
Soccer Ball  
Soccer Ball  
Soccer Ball




**'19"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'2"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



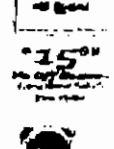
**'39"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'29"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



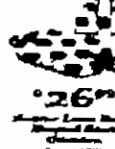
**'14"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'15"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'19"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



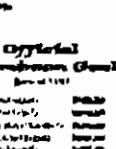
**'26"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'21"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'2"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



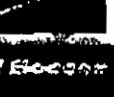
**'11"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey




**'169"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



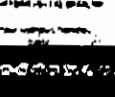
**'21"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



**'2"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



**'11"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey



**'169"**  
Soccer Jersey  
Soccer Jersey  
Soccer Jersey

**Official**  
**Association Goal**  
 (Size of 11' x 7')

Goal dimensions: 11' x 7'  
 Goal height: 7'  
 Goal width: 11'  
 Goal depth: 7'  
 Goal length: 11'  
 Goal width: 7'  
 Goal depth: 11'  
 Goal length: 7'

**2-1/2" Steel Goal**  
 w/ Ground Bar

Goal dimensions: 2-1/2" x 11' x 7'  
 Goal height: 2-1/2'  
 Goal width: 11'  
 Goal depth: 7'

**Largest Selection of Soccer Gear** [www.epicsoccer.com](http://www.epicsoccer.com)